

Rule Options for 2021 Session Operations During a Public Health Emergency

I. Background Information

At the August 24, 2020, Legislative Council Rules Subcommittee meeting, the subcommittee directed staff to develop detailed rule amendment options for the following session planning hybrid scenarios:

02 PHASE 2 - HYBRID VIRTUAL SESSION	03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION
<p>HYBRID VIRTUAL SESSION</p> <p>Members and staff have option to participate remotely from home or remotely from other locations in Helena. All public participation is remote. Group size limited to 50.</p>	<p>HYBRID, SOCIALLY DISTANCED SESSION</p> <p>Members and staff have option to participate remotely from home, remotely from other locations in Helena, or in person at the Capitol. In-person and remote public participation is allowed, with limits on group size. Group size remains under 250.</p>

Pursuant to Rules Subcommittee directives, this rule options handout lists new rules and rule amendment options to implement the above scenarios.

II. Rule Amendment Options

A. Swearing-in and Call to Order

1. Explanation: If continuity of the Legislature is potentially compromised due to public health and safety risks during an emergency, the broad authority under the constitutional continuity of government provisions, the Legislature's inherent police powers, the constitutional legislative rule provisions, and the Legislature's specific statutory authority would likely authorize the following options for the swearing-in and call to order of the 67th Legislature:

(a) leadership from each chamber may be present in the Capitol building and electronically swear-in the members in each house remotely and call to order each chamber if a majority of members in each house are electronically or physically present;

(b) a majority of members of each house are in Helena and in the chambers (and galleries) for swearing in. If members must be sworn in remotely, a process could be developed to assure that the proper paperwork is submitted electronically;

(c) alternate days are used for swearing-in and call to order of the two bodies to reduce numbers in the building; and/or

(d) a majority of members in each house convene in Helena outside of the Capitol building in facilities that allow for social distancing.

2. Rule Amendment Options for Swearing-in and Call to Order

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#1. NEW JOINT RULE ** -- "Organization of Senate -

- call to order -- oath of office" (1) At 12 noon on the day appointed for the meeting of the 67th regular session of the Legislature, the President-elect shall call the senators and senators-elect that are physically and electronically present to order.

(2) The President-elect shall call over the senators from the certified roster prepared by the Secretary of State, and then, from the certified roster prepared by the Secretary of State, call over the senatorial districts and counties, in their order, from which members have been elected at the preceding election.

(3) After the names are called, the members-elect must take the constitutional oath of office either by being physically present or electronically present.

(4) The member-elect's oath of office must be certified by the President-elect either electronically or via a paper and filed with the office of the Secretary of State.

(5) If a member-elect is present physically or electronically, the member may submit their oath of office documentation electronically with a facsimile signature authorized pursuant to 5-2-105, MCA.

(6) If a quorum of members is present physically or electronically, the Senate may proceed to elect its officers.

Same as #1

<p>#2. NEW JOINT RULE ** -- "Organization of House -- call to order -- oath of office" (1) At 12 noon on the day appointed for the meeting of the 67th regular session of the Legislature, the Secretary of State or the Speaker-elect shall call the members-elect of the House of Representatives that are physically and electronically present to order.</p> <p>(2) The Secretary of State or the Speaker-elect shall call over the roll the members from the certified roster prepared by the Secretary of State that includes the counties and districts.</p> <p>(3) After the names are called, the members-elect shall take the constitutional oath of office either by being physically present or electronically present.</p> <p>(4) The member-elect's oath of office must be certified by the Secretary of State or the Speaker-elect either electronically or via a paper and filed with the office of the Secretary of State.</p> <p>(5) If a member-elect is present physically or electronically, the member may submit their oath of office documentation electronically with a facsimile signature authorized pursuant to 5-2-105, MCA.</p> <p>(6) If a quorum of members is present physically or electronically, the House may proceed to elect its officers.</p>	<p>Same as #2</p>
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B. Adoption of Session Rules

1. Explanation: If continuity of the Legislature is potentially compromised due to public health and safety risks during an emergency, the broad authority under the constitutional continuity of government provisions, the Legislature's inherent police powers, the constitutional legislative rule provisions, and the Legislature's specific statutory authority, would likely authorize the following options for the adoption of session rules:

(a) The statutory authority under sections 5-2-202 and 5-2-205(2), MCA, specifically allow for elected members of the 2021 Legislature to organize and begin setting out procedures and processes for operation of the session prior to being sworn in. The rules committees are statutorily authorized to meet prior to start of the 2021 session to outline requirements and draft rules resolutions for hybrid participation operating rules. This could be a remote or hybrid meeting of the rules committees' members.

(b) The adoption of the rules resolutions could take two forms depending on the severity of the public health emergency situation:

(i) The authority noted above would potentially allow the elected leadership and rule committee members of the 2021 Legislature to conduct a poll of the members to adopt emergency operating rules prior to convening of the 2021 session. Once the 2021 Session is convened and members are sworn-in and a quorum of the members in each chamber is present physically or electronically, the rule resolutions that were adopted via the poll could be further validated by adoption in each house; or

(ii) The rule resolutions are adopted promptly after swearing in and call to order to allow for the rules to go into effect immediately.

2. Rule Amendment Options for Adoption of Rules

02 PHASE 2 - HYBRID VIRTUAL SESSION Members and staff have option to participate remotely from home or remotely from other locations in Helena. All public participation is remote. Group size limited to 50.	03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION Members and staff have option to participate remotely from home, remotely from other locations in Helena, or in person at the Capitol. In-person and remote public participation is allowed, with limits on group size. Group size remains under 250.
See Joint Rule Options for swearing in and call to order and hybrid physically present and electronically present.	See Joint Rule Options for swearing in and call to order and hybrid physically present and electronically present.

C. Session Duration and Timing

1. Explanation: The Subcommittee had raised potential scenarios regarding session duration and timing. Examples included:

(1) initially convening the session in January and then recessing the session to a date certain and allow for bills to be drafted and certain committees to convene and conduct business during a recess;

(2) shortened session, with limitations on what committees meet and what business is covered is agreed to by leadership and incorporated into rules;

(3) session days occur intermittently or on a schedule determined by leadership; and

(4) House and Senate meet on alternate days in the House chambers, allowing the Senate to be used as meeting space.

The Speaker and the President have the authority to manage the legislative workflow and calendar during the session. Each chamber (working in tandem) has the authority to recess for periods of time.

Potential rule changes may include adjustments to:

(1) transmittal date deadlines and bill request and introduction deadlines;

(2) the definition of what constitutes a "legislative day" and "legislative business" to accommodate extended recess periods and legislator pay and per diem.

Section 5-2-301, MCA, sets out the requirements for compensation and expenses for legislators while in session:

5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If

the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

- (a) three additional round trips to their place of residence during each regular session; and
- (b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) The department of administration shall work with the legislative services division to offer options to legislators to receive their session salary provided for in subsection (1) over the 2-year legislative term or a portion of the term. The options must be offered to all legislators in order to assist legislators to manage their income over the term. The per diem allowance and mileage as provided in this section, salary during a special session as provided in 5-3-101, and the salary during the interim as provided for in 5-2-302 may not be affected.

This statutory provision may need to be amended by bill at the beginning of the session to allow for additional flexibility when the Legislature is in recess with respect to expenses incurred by legislators.

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#1. AMENDMENT JOINT RULE 10-20.

Legislative day -- duration. (1) If either house ~~is in~~ convenes a floor session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

Same as #1.

<p>#2. NEW JOINT RULE "Legislator reimbursement for expenses during the session" (1) Legislators are entitled to a salary as authorized under 5-2-301, MCA, when the regular session of the Legislature in which they serve is convened for those days during which the Legislature is in session.</p> <p>(2) Legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session.</p> <p>(3) If the Legislature is in recess for more than 3 days, a legislator may the daily allowance if the legislator is involved in legislative business. (may necessitate statutory authorization)</p> <p>(4) For purposes of this rule, "legislative business" means a legislator who is a member of a committee that is meeting and conducting business during a recess of more than 3 days or a legislator who is the primary sponsor of a bill that is scheduled for a committee hearing during a recess of more than 3 days.</p>	<p>Same as #2.</p>
<p>#3. AMENDMENT JOINT RULE 40-200. Transmittal deadlines -- two-thirds vote requirement. [Amendments made to this rule are dependent on decisions made regarding session timing and duration.]</p>	<p>Same as #3.</p>

#4. AMENDMENT JOINT RULE 40-40. Bill requests and introduction -- limits and procedures -- drafting priority -- agency and committee bills. [Amendments made to this rule are dependent on decisions made regarding session timing and duration.]	Same as #4.
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D. Hybrid Rules Authorizing Members to be Either Physically Present or Present Remotely Through Electronic Means

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#1. NEW JOINT RULE ** -- Definitions. As used in these operating rules, the following definitions apply: (1) "Member" means a member of the Senate or House of Representatives for the 67th Legislature. (2) "Participating remotely" or "remotely present" means participating by telephone, teleconference, video conference, or other means. (3) "Present" means a member either physically present participating in the session or remotely present and participating in the session. (4) "Session" means the 67th Legislative Session.	Same as #1.

<p>#2. NEW JOINT RULE ** -- Members physically present or present remotely by electronic means. (1) The Senate and House shall assemble, convene, and conduct the session with members being either physically present or participating remotely.</p> <p>(2) Members participating remotely in the session may vote on any question or other matter before the Senate or House, including committees of the Senate or House.</p> <p>(3) Members participating remotely in the session are considered present and in attendance at the session for all purposes, including for purposes of:</p> <p>(a) determining a quorum pursuant to Article V, section 10, of the Montana Constitution; and</p> <p>(b) being present for the passage of a bill pursuant to Article V, section 11, of the Montana Constitution.</p> <p>(4) A member participating remotely in the session has the same privileges, rights, and duties as if the member were physically present, including the right, privilege, and responsibility to cast votes on all questions or other matters brought to a vote.</p>	<p>Same as #2.</p>
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E. Legislation Processing

1. Explanation

(a) In a remote hybrid setting, staff could draft and process the 1,000-1,500 proposals typically introduced in a regular session. Scheduling and hearing that many proposals would be a challenge but could be accomplished with additional session staff and likely remote locations around the Capitol complex and/or Helena or around the state.

(b) Rule options for drafting, picking up, introducing, and processing legislation would need to be put into place.

(c) Rules could be adopted to limit the number of bills each member can request and/or introduce. Options for additional drafts, with the approval of majority and minority leadership, could be developed. Majority and minority leadership could reserve a certain number of bill draft requests.

(d) Bill drafters could follow up with a legislator by phone or email or other remote applications after receiving a bill draft request.

(e) Research work and drafts could be provided to members by emailing PDFs of the document, followed up by an email or phone call to ensure receipt and respond to any additional requests.

(f) Options for majority and minority leadership to pick up and put bills for introduction in the hopper could be established.

2. Rule Amendment Options for Legislation Processing

02 PHASE 2 - HYBRID VIRTUAL SESSION	03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION
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The following amendments apply to both 02 and 03 Phase 2 Scenarios:

#1. AMENDMENT JOINT RULE 40-40. Bill requests and introduction -- limits and procedures -- drafting priority -- agency and committee bills. (1) Prior to a regular session, a person entitled to serve in that session, referred to as a "member", or a legislative committee is entitled to request bill drafting services from the Legislative Services Division. Deadlines for requesting certain types of bills during a legislative session are contained in Joint Rule 40-50.

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes. Members of leadership of each party in each chamber may reserve 10 bill draft requests.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must ~~pick up the bill~~ take delivery of the bill either in person or by electronic means and sign, either in person or via electronic means, a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

(i) Code Commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 20 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15 for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall post them electronically or print and deliver them to the requesting members. ~~The~~ If the bill is printed on paper, the original bill back must be signed to indicate review by the Legislative Services Division. The electronic version of the bill must include an indication of review by the Legislative Services Division. A bill may not be introduced unless it is so signed or indicated.

(4) (a) During a session, a bill may be introduced by endorsing it with or by indicating the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears or is indicated first on the bill is a member. The chief joint sponsor's name must appear or be indicated immediately ~~to the right of~~ after the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Except as provided in subsection (5)(b)(ii), any bill requested by an interim or statutory legislative committee or on behalf of an administrative or executive agency or department through an interim or statutory committee must be so indicated by placing after the names of the sponsors the phrase "By Request of the....."

(Name of committee or agency)". The phrase may not be added to an introduced bill by amendment. The phrase may not be placed

on a bill unless requested by a statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction of an agency, committee, or individual legislator's bill must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) (i) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue. Bills requested under this subsection (5)(b) may include the phrase "By Request of. (Name of official or committee)".

(ii) An official newly elected to a statewide office may request in writing that the Legislative Services Division remove the phrase "By Request of " from bills requested by the outgoing official of that office.

(6) Bills may be preintroduced, numbered, posted online, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures, facsimile signatures (5-2-105, MCA), or electronic signatures, and verified email addresses of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed or listed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the printed bill or included on the electronic version of the bill following standing committee approval.

#2. AMENDMENT JOINT RULE 40-100. Fiscal notes. (1) All bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days

unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's actual or electronic signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's actual or electronic signature.

(6) A fiscal note must, if possible, show in dollar amounts.

(a) the estimated increase or decrease in revenues or expenditures;

(b) costs that may be absorbed without additional funds; and

(c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within 3 days of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(10) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill ~~is accompanied by~~ and the fiscal note are posted online.

(12) (a) If the budget director fails to prepare and submit a fiscal note in a timely fashion in accordance with this rule, the presiding officer of each house may request the preparation of a fiscal note by the Legislative Fiscal Division, which shall prepare a fiscal note for the bill.

(b) The presiding officer of the originating chamber shall designate which fiscal note accompanies the bill or is used in the preparation of the status sheet if more than one fiscal note is prepared.

#3. AMENDMENT JOINT RULE 40-110. Sponsor's fiscal note rebuttal. (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal, the sponsor shall make the election as provided and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note rebuttal.

(3) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks. The sponsor's rebuttal must be posted online with the bill materials.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals and shall post online and may print the completed sponsors' fiscal note rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.

#4. AMENDMENT JOINT RULE 40-140. Second reading -- bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill and its version status must be posted online and, if printed, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, an indication must be made online on the bill status page. If the bill is printed, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

#5. AMENDMENT JOINT RULE 40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole

of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be marked to indicate that it has not been amended, and the bill must be posted online and~~must~~ may be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill are to be distributed to members electronically or, if printed, are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. ~~Only~~ If printed, only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be engrossed and the engrossed bill posted online and if the bill is printed, included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be engrossed and the engrossed bill posted online and if the bill is printed, included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, ~~copies of the reference bill must be~~ posted online and, if printed, copies distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

#6. AMENDMENT JOINT RULE 40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken. The enrolled bill must be posted online.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;
- (c) signed by the presiding officers; and
- (d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working

days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division

F. Electronic Amendment Processing

1. Explanation: Amendments are drafted electronically using the Legislative Services Division's amendment drafting editor software..Requested amendments for session committee executive action or committee of the whole floor action can be posted to the Legislature's web page allowing committee members, other legislators, and the public electronic access to the amendments online.

2. Rule Amendment Options for Posting Amendments Online

02 PHASE 2 - HYBRID VIRTUAL SESSION Members and staff have option to participate remotely from home or remotely from other locations in Helena. All public participation is remote. Group size limited to 50.	03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION Members and staff have option to participate remotely from home, remotely from other locations in Helena, or in person at the Capitol. In-person and remote public participation is allowed, with limits on group size. Group size remains under 250.
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<p>#1. NEW JOINT RULE ** -- Amendment processing. (1) Amendments to bills and resolutions are drafted by Legislative Services Division staff.</p> <p>(2) All amendments must be reviewed by the staff of the Legislative Services Division for proper format, style, and legal form.</p> <p>(3) Amendments requested and approved by a legislator on a bill that has been assigned to a session standing committee must be posted online prior to executive action on the bill.</p> <p>(4) Amendments requested and approved by a legislator on bill that is scheduled for second reading in the Committee of the Whole, must be posted online.</p>	<p>Same as #1.</p>
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G Floor Action and Voting Procedure and Authentication

1. Explanation: Rules need to be adopted to establish a procedure by which members certify the accuracy of the members' votes. In other states, they have used a roll call vote with a visual confirmation, and some states follow up with the vote sheet and having a legislator certify that was their true and correct vote. Options for voting include:

(a) Electronic options, or apps, could be used for floor votes. Currently, International Roll Call is installing a remote voting option to the House and Senate voting systems for use by legislators remotely using a secure web link. Two-factor authentication is required. Procedures would have to be developed to coordinate the remote voting and videoconferencing applications.

(b) The identity of each member participating remotely could be verified through multifactor authentication. This process could be accomplished as follows:

(i) The member participating remotely logs into the video conferencing software program. This process could serve as the initial verification of the member's identity.

(ii) The use of the video conferencing software's video capabilities could serve as a second method to verify the member's identity. A member who is participating remotely would be asked to turn on the conferencing software's video capabilities; however, if technical difficulties or insufficient internet bandwidth make it impossible for the remotely participating member's video to be

shown, the prior method of authentication could be sufficient to authenticate the members' identity and actions and they still may participate remotely in the session.

(iii) Voice votes could be used from a remote setting with authentication in place. The Vote Clerk could call the names of those who do not vote via the voting machine. The vote clerk could enter the vote into the voting system. After all members have voted, the Speaker/President could call for the voting machine to be closed and announce the vote.

2. Rule Amendment Options for Floor Action and Voting Procedures and Authentication

<p>02 PHASE 2 - HYBRID VIRTUAL SESSION</p> <p>Members and staff have option to participate remotely from home or remotely from other locations in Helena. All public participation is remote. Group size limited to 50.</p>	<p>03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION</p> <p>Members and staff have option to participate remotely from home, remotely from other locations in Helena, or in person at the Capitol. In-person and remote public participation is allowed, with limits on group size. Group size remains under 250.</p>
<p>#1. NEW JOINT RULE ** -- Remote voting. A member who is present and participating remotely shall vote using an electronic voting system established for that purpose.</p>	<p>Same as #1.</p>

H. Public, Media, and Lobbyist Participation

1. Explanation: Public participation is constitutionally required. Audio and video streaming of legislative session proceedings and committee hearings and virtual public involvement would allow the public to participate in the legislative process and comply with constitutional requirements. Current rules require testimony from proponents, opponents, and informational witnesses allowed on every bill or resolution. Options to meet legal requirements include:

- (a) Revise rules to allow for or require remote public participation or hybrid in-person and remote public participation.
- (b) Public access and participation in legislative activities includes all members of the public, lobbyists, and media.
- (c) Access to the press rooms in the Capitol building is granted by the Executive Branch.

(d) All meetings and floor sessions are streamed live on www.leg.mt.gov and one hearing or floor session is broadcast on the Montana Public Affairs Network (MPAN) to view only.

(e) Public testimony could be taken through the remote application.

(f) Each committee also could provide for oral virtual public comment on the agenda. Rules may need to specify that testimony received via email will be entered into the record (minutes).

Under the rules of the House and Senate, the Speaker and the President are charged with the authority for administration, order, decorum. This authority could also be exercised related to floor access and gallery access as it relates to the public, media, and lobbyists.

2. Rule Amendment

02 PHASE 2 - HYBRID VIRTUAL SESSION Members and staff have option to participate remotely from home or remotely from other locations in Helena. All public participation is remote. Group size limited to 50.	03 PHASE 2 - HYBRID, SOCIALLY DISTANCED SESSION Members and staff have option to participate remotely from home, remotely from other locations in Helena, or in person at the Capitol. In-person and remote public participation is allowed, with limits on group size. Group size remains under 250.
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#1. NEW JOINT RULE ** -- Remote public participation required -- in-person public participation restricted.

(1) Public participation is constitutionally required pursuant to Article II, sections 8 and 9, and Article V, section 10(3), of the Montana Constitution.

(2) In order to comply with constitutional requirements and promote and protect the health and safety of individuals involved in the legislative process, the Legislature shall provide live audio and video streaming of legislative session proceedings and committee hearings and provide for virtual remote public involvement that allows the public to participate in the legislative process as if they were participating in-person.

(3) All public participation in the legislative process is limited to remote public participation.

(4) For the purposes of this rule, "public participation" means: individuals, including the general public, state agency personnel, lobbyists, and media representatives participating in the legislative session process.

#2 NEW JOINT RULE ** -- Legislative leadership public participation and access panel -- limitation of in person public access -- right to participate and observe.

(1) (a) There is a Legislative Leadership Public Access Panel comprised of:

(i) The Senate President;

(ii) the Speaker of the House;

(iii) the Senate Minority Leader; and

(iv) the House Minority Leader.

(b) If one of the leaders is not available, the Pro Tempore or Minority Whip of the same caucus shall serve as the replacement or appoint a designee.

(2) In order to promote and protect the health and safety of individuals involved in the legislative process and to minimize public health dangers resulting from the public health emergency, the panel shall determine the level of in-person public involvement in all matters of legislative business, including but not limited to public meetings, House and Senate floor and gallery access, and access to legislative offices. The panel may adjust the level of in-person public involvement at any time based on a sliding scale approach that considers all the relevant facts and circumstances, including the impact to the public, the legislative process, and the overall risk of becoming infected with COVID-19 in the Capitol building.

(3) Subject to subsection (5), the approach may provide restricted in-person public involvement in the legislative process or closure of any areas of the Capitol to the public that is under control of the Legislature. Restrictions may include testing for COVID-19 symptoms, requiring electronic exhibits from members of the public, room capacity limitations, daily in-person attendance limits, advance in-person registration, room closures, directional traffic, and any other relevant social distancing measure that may limit the spread of COVID-19.

(4) (a) The approach must provide for the ability of a committee to receive oral testimony from members of the public through electronic means. The panel may require advance registration or impose other limitations, including time limitations. All members of the public, whether testifying in person or remotely, must be provided with equal time to testify.

(b) A committee chair retains the right to limit testimony through electronic means, including deadlines for testimony requests and time allowed for public comment. Witnesses may be called to testify at any point during a bill hearing as determined by the chair, regardless of whether the witness is a proponent or opponent.

(5) The approach must provide for public's right to participate and right to know as required by Article V, sections 8 and 9, and Article V, section 10(3), of the Montana Constitution. The public has an absolute right to participate in the legislative committee process by submitting written testimony as a proponent or opponent on any legislation through the Legislature's website. Written testimony submitted through the

	<p>record and will be included in the record for the committee considering the bill. The option to submit written testimony will be available beginning when a bill is scheduled for a hearing in a committee of reference and last until the committee hearing on the bill ends. A live broadcast must be streamed online for any legislative committee.</p>
	<p>#3 NEW JOINT RULE ** -- Remote and in-person public participation -- limitation of in-person public access -- right to participate and observe. [The basis for this rule is to promote and protect the health and safety of individuals involved in the legislative process and to minimize public health dangers resulting from the public health emergency. Instead of leaving it up to the discretion of the Leadership Panel outlined in #2 NEW JOINT RULE, this rule would proscribe the agreed-to detailed protocols regarding public access to the Capitol building, remote and in-person public participation, and cross reference detailed protocols for screening, testing, social distancing measures, workplace and public space protections, and responding to a symptomatic person in the Capitol building during the public health emergency.]</p>

I. Session Public Health and Safety Protocols

Explanation: In order to promote and protect the health and safety of individuals involved in the legislative process and to minimize public health dangers resulting from the public health emergency, the joint rules could be amended to cross reference detailed public health and safety policy protocols for screening, testing, social distancing measures, workplace and public space protections, and responding to a symptomatic person in the Capitol building during the public health emergency. Susan Fox has prepared an example of a policy protocol for responding to a symptomatic person in the Capitol building during the legislative session (see attached).

J. Tenure and Applicability of Public Health Emergency Joint Operating Rules

Explanation: To ensure a consistent and unified application in the House and Senate of these public health emergency operating rules, the tenure of these rules should be defined and these joint operating rules should supersede any conflicting House and Senate rules. It may also be necessary to amend certain House and Senate rules to conform with these joint rules going forward.

NEW JOINT RULE ** -- Tenure and applicability of public health emergency operating rules. (1) The public health emergency operating joint rules remain in effect until removed through a motion or joint resolution as prescribed in Joint Rule 60-10, or until a new Legislature is elected and takes office.

(2) Notwithstanding House Rule 70-60, and Senate Rule 60-30, these public health emergency joint operating rules supercede any Senate and House rule that is in conflict with these emergency joint operating rules.